

Office of Management and Budget Paperwork Reduction Act Procedures (JoAnn Lauterbach)

[The following is Ms. Lauterbach's transcription of her presentation.]

Hi everyone, my name is Jo Ann Lauterbach, and I am MMS's Information Collection Clearance Officer. What this means is that I am responsible for ensuring that MMS is in compliance with the Paperwork Reduction Act of 1995 and that all of MMS's Federal and Indian reporting and recordkeeping requirements that we impose on the public through our rulemaking and non-rulemaking documents are first approved by the Office of Management and Budget. What this also means is that I am not the enemy, contrary to the rumors. I must admit that people who know what I do get a little nervous when they see me coming. They think I am the bearer of bad news where their projects are concerned. I am really not. I am just the person they need to see to get their work approved by OMB.

I feel honored to be invited to your conference and to explain to you the details of the Act and how MMS complies with it. I will also explain how MMS works with the Department of the Interior and OMB in obtaining OMB's approval for all our reporting and recordkeeping requirements, whether they are contained in regulations or in surveys, questionnaires, or studies.

I understand from Rodney Cluck that you will be doing business with MMS through studies, surveys, or questionnaires. Since these instruments will likely include information collection requirements, I'm here to tell you how to get them approved by OMB.

It is unusual for me to speak to the public on this subject. However, the Act touches many lives inside and outside of the Federal Government.

I have been dealing with this Act since 1984 and feel very passionately about it. Often, the Act is misunderstood, and people react negatively to it because they think it is so complex to implement. I'm here to explain to you that it is not a "fearsome" process. Once you start working with it, the process becomes pretty routine. The Act is Congress' way of keeping Federal Agencies from placing undue burdens on the public when they are asking for information. However, this Act has significantly increased the paperwork burden on the Government in order to justify our collection of information. That's one of my pet peeves that I have mentioned to OMB on several occasions, but to no avail. I was told that if I pursued trying to change the Act, it would only cause Congress to react even more severely in restricting Agencies in what they could do to collect information. So, this Act may seem trivial to people unfamiliar with it. But, it is anything but.

The Act has been around since 1980 and was amended in 1986 by the Paperwork Reduction Reauthorization Act. Then the Act of 1995 was enacted which replaced the Act of 1980.

The 1995 Act contained several changes to the 1980 Act. The most significant are that it requires agencies:

- ❑ To seek public comment concerning proposed collections of information through a 60-day Notice that is published in the *Federal Register* before submission for clearance by OMB,
- ❑ To certify to OMB that the proposed collection reduces the burden on respondents for small businesses, local governments (including Indian governments), and other small entities, and
- ❑ To indicate for each recordkeeping requirement the length of time persons are required to maintain the records specified.

The Act also redefines “collection of information” explicitly to include third-party and public disclosures.

Now, the purpose of the Act is to minimize the paperwork burden the Federal Government places on the public and to improve the quality and use of Federal information.

The Act also requires each Federal Agency to seek and obtain OMB’s approval before requesting information from ten or more persons. Furthermore, any reporting, recordkeeping, or disclosure requirement contained in a rule is deemed to involve ten or more persons.

OMB approval is also needed to continue a collection for which OMB’s approval and the validity of the OMB Control Number are about to expire. OMB usually approves a collection for a maximum of 3 years.

Now, if MMS does not comply with the Act, there are penalties. First, we can be sued by the public if we ask for information that has not been approved by OMB. This would apply mainly to our rules where our reporting and recordkeeping requirements are mandatory. Second, our rules, studies, surveys, and questionnaires are not valid if the reporting and recordkeeping requirements contained in them are not approved. We cannot publish a rule or any nonrulemaking document unless all information collection requirements are approved first. And third, we cannot enforce penalties if people sue us. An example of this is that we cannot enforce any penalties in our rules if a company is violating the regulations unless the reporting requirements the companies are violating have been approved by OMB. Therefore, a company can sue us because we are not in compliance with the Paperwork Reduction Act.

Let's talk about timeframes for this information collection process. The overall process takes about 6 months. This 6 months begins when we publish a 60-day *Federal Register* Notice and ends with OMB's approval. Ideally, the Department would like to have 60 days to review and approve the information collection request. In fact, for renewals, the Department wants to receive information collection requests at least 120 days before the OMB approval expires. However, in the real world, we are working against the clock most of the time with very little time to approve these information collection requests before they expire.

OMB has up to 60 days to approve an information collection request once it is logged into their Docket Library. There are rare exceptions when we can request that OMB approve an information collection request after 30 days, but don't ask for this exception except in a true emergency. For example, when an information collection request is approved by OMB at the proposed rule stage and changes are made to it at the final rule stage, we need to submit a revision to a currently approved collection. At that time, we can ask OMB if they will approve these changes within 30 days so that they can be effective when the final rule is effective. The final rule cannot be effective until OMB has approved the changes.

Ideally, OMB would like to receive renewals at least 60 days before OMB's approval expires. Very infrequently, they will accept a renewal by noon on the last day of the expiration date and keep the OMB Control Number active until their review and approval is finished. However, I don't like to do this too often because I don't want the program areas to think this is a valid option, because it is not. If we don't get our renewals to OMB 60 days before they expire, we can only collect information that is already approved before the collection expires. If the renewal contains any new information collection requirements, we cannot collect this new information until OMB approves the renewal.

In a very broad overview, here are the steps in the PRA process once you know what information you want to collect. First, Contact the appropriate Information Collection Liaison to start the process. In conjunction with the Liaison:

- ❑ Prepare and publish a 60-day *Federal Register* Notice.
- ❑ Develop an information collection request using OMB's guidelines.
- ❑ Prepare a 30-day *Federal Register* Notice (if the collection is not associated with a rulemaking).
- ❑ Submit the request to me for signature, after which I will submit it to the Department for approval.
- ❑ Once the Department approves the request, I will submit it to OMB for approval.

Now I want to go over some of the material you have in your handouts. First, I have developed some Bureau Guidelines. I have provided a copy for your use. These guidelines are a living document because things change very quickly when you are dealing with OMB. They will be updated as new information is

received. In the near future, I am planning to put these guidelines and all our approved information collection requests on our website.

I've also provided you with an example of what an information collection request looks like when all put together. I've included a 60-day *Federal Register* Notice, a Form OMB 83-I, a Supporting Statement (done for a survey), a 30-day *Federal Register* Notice, and copies of OMB's guidelines and instructions on how to complete a Form OMB 83-I and Supporting Statement. I also included a flow chart showing the process for a rulemaking. Hopefully, these tools will be of some benefit to you when you decide to start developing an information collection request.

Also, as you can see from the handout on the Supporting Statement, we have formatted OMB's guidelines into plain-language context using questions and answers. OMB has been very pleased with us for doing that. So, when you develop your Supporting Statement, please use these questions as your guide in preparing your answers.

I would also like to point out that there are several items in the Supporting Statement that OMB looks at very closely, and I suggest that you answer them with a strong justification. These items are:

1. What circumstances make the collection necessary?
2. How, by whom, and for what purpose is the information to be used? (Explain what method you will be using to collect information.)
3. Does the collection involve the use of electronic technology to reduce the burden?
4. What is the Agency doing to minimize the burden on small businesses or other small entities?
5. What efforts were made to consult with the public and a representative sample of respondents?
6. Estimating reporting and record keeping "hour" burden.
7. Estimating reporting and record keeping "cost" burden.

Important people to know in MMS, DOI (Department of Interior), and OMB:

1. Me, of course.
2. Alexis London, who is my Information Collection Clearance Liaison in Offshore Minerals Management.
3. Dennis Jones, who is my Information Collection Clearance Liaison in Royalty Management.
4. Don Bieniewicz is the Department's Information Collection Clearance Coordinator.
5. David Rostker is OMB's Desk Officer to DOI.

This is the chain-of-command. You can find their telephone and fax numbers in my guidelines. However, OMB only wants a single point-of-contact and that's me. As a caution, you are not authorized to call OMB or the Department. You should work with your Liaisons or me if you have any questions or concerns when you are developing your request.

Other important facts concerning information collection:

1. If you have received OMB approval for a form, questionnaire, or survey, you cannot make any changes or modify these documents in any way. If these documents are altered after they have been approved by OMB, they will have to be resubmitted to OMB again for approval.
2. Each form, questionnaire, or survey must contain a Paperwork Reduction Act statement, OMB Control Number, and Expiration Date on it before you can use it.
3. OMB requests that an Information Collection Budget be developed every year identifying MMS's information collection needs for the coming years. The ICB contains the projected estimated burden hours that MMS will impose on the public in future projects (rulemakings, surveys, etc.). If you know you will have a survey, questionnaire, or study to do within the next 3 years, you should tell MMS so we can include it in the ICB. Once the ICB is approved by OMB, you have the green light to proceed with your information collection request. OMB's guidelines for the ICB will be coming out shortly requesting our input for the next year.
4. One other area I want to mention is that MMS can be found in violation of the Act if we collect information that has not been approved. We had two incidents in 1997. One included a private company blowing the whistle on us for asking for information in a Dear Payor Letter that wasn't approved by OMB. The other concerned Notices to Lessees and Operators (NTLs). NTLs are only to be used to clarify what's written in our regulations. They are not to be used as a means to impose additional reporting requirements on the public. Appropriate rulemaking is the way to go.

Since, I have been charged by my boss to ensure that no violations ever occur again, you better believe that I will be the policeman watching over our program areas to make sure we have no more violations. Congress came down pretty hard on all the agencies that had violations last year. Fortunately, there were none on my watch, and I worked very hard to make sure that there weren't any!

So, if you have any questions or doubts that you might be collecting information without OMB's approval, please call me or my liaisons and we'll let you know if you are in violation or not.

Remember, OMB does not want to stop MMS from doing its job. It only wants us to do it legally according to the Act.

I have set very high standards for MMS to follow in order to develop a “first class” product to submit to the Department and OMB to ensure OMB approval the first time. I will not sign off on any information collection requests that do not meet these standards. I do this because I have established a credibility with the Department and OMB to send them the very best product for approval. This credibility has enabled me to perform miracles at times to get approvals from these people under the most trying conditions without one question or change to the request. As I said earlier, I am not the enemy. I am here to help you get your studies, surveys, and questionnaires approved by OMB. So, please work with me and my Liaisons whenever you have information collection needs.

Well, I hope I haven't bored you to death with all this detailed information. I thank you for listening.